

FILED

2011 JUL -6 PM 1:06

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
RIVERSIDE

1 Michael J. Sexton CA Bar No. 153435
michael.sexton@ogletreedeakins.com
2 Daniel A. Adlong CA Bar No. 262301
daniel.adlong@ogletreedeakins.com,
3 OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
Park Tower, Suite 1500
4 695 Town Center Drive
Costa Mesa, CA 92626
5 Telephone: 714.800.7900
Facsimile: 714.754.1298

6 Attorneys for Defendant THE HOME DEPOT U.S.A., INC.
7 (erroneously named as HOME DEPOT USA, INC.)

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT, EASTERN DIVISION

10
11 CHRIS CORY COMLEY,

12 Plaintiff,

13 v.

14 HOME DEPOT USA, INC., a Delaware
corporation; and DOES 1-100,

15 Defendants.
16

ED CV11-01040VAP(DTBx)

Case No.

DEFENDANT'S PETITION AND
NOTICE OF REMOVAL

BY FAX

Complaint Filed: June 1, 2011
Trial Date:
Judge:

17
18 TO THE UNITED STATES DISTRICT COURT FOR THE CENTRAL
19 DISTRICT OF CALIFORNIA, AND TO PLAINTIFF AND HIS ATTORNEYS
20 OF RECORD:

21
22 PLEASE TAKE NOTICE that Defendant The Home Depot U.S.A., Inc.
23 (hereinafter "Defendant" or "Home Depot") hereby removes this action from the
24 Superior Court of the State of California for the County of San Bernardino to the
25 United States District Court for the Central District of California pursuant to 28
26 U.S.C. §§ 1332 and 1441(b) on the grounds that there is complete diversity of
27 citizenship between Plaintiff Chris Cory Comley ("Plaintiff"), a citizen of the State
28 of California, and Home Depot, a citizen of the States of Delaware and Georgia; that

1 the amount in controversy exceeds the jurisdictional minimum of \$75,000 set forth in
2 Section 1332(a); and that the foregoing facts were true at the time the Complaint in
3 this matter was filed and remain true as of the date of the filing of this notice of
4 removal, as more fully set forth below on the following grounds:

5 **I.**

6 **THE STATE COURT ACTION**

7 1. On or about June 1, 2011, Plaintiff filed an action against Home Depot
8 entitled "CHRIS CORY COMLEY, Plaintiff v. HOME DEPOT U.S.A., INC., and
9 DOES 1 through 100, Defendants" in San Bernardino County Superior Court, Case
10 Number CIVRS1105339. Attached hereto as Exhibit "A" is a true and correct copy
11 of the Complaint ("Complaint").

12 2. On or about June 7, 2011, Plaintiff served the Summons and Complaint
13 on Home Depot's statutory agent for service of process. Attached hereto as Exhibit
14 "B" is a true and correct copy of the Summons. In addition to the Summons and
15 Complaint filed by Plaintiff set forth above, Plaintiff served the Alternative Dispute
16 Resolution Information Packet. Attached hereto as Exhibit "C" is a true and correct
17 copy of the Alternative Dispute Resolution Information Packet. At the same time,
18 Plaintiff served a Certificate of Assignment. A true and correct copy of the
19 Certificate of Assignment is attached hereto as Exhibit "D." At the same time,
20 Plaintiff served a Notice of Case Assignment. A true and correct copy of the Notice
21 of Case Assignment is attached hereto as Exhibit "E." Finally, at the time same
22 time, Plaintiff served a Civil Case Cover Sheet. A true and correct copy of the Civil
23 Case Cover Sheet is attached hereto as Exhibit "F."

24 3. On July 5, 2011, Home Depot timely filed and served its Answer to
25 Plaintiff's Complaint in the San Bernardino County Superior Court. Attached hereto
26 as Exhibit "G" is a true and correct conformed copy of Defendant's Answer to
27 Plaintiff's Complaint.
28

1 **II.**

2 **REMOVAL IS TIMELY**

3 4. A defendant in a civil action has thirty (30) days from the date it is
4 validly served with a summons and complaint to remove the action to federal court.
5 28 U.S.C. § 1446(b). 28 U.S.C. § 1446(b) (“[A] notice of removal may be filed
6 within thirty days after receipt by the defendant, through service or otherwise, of a
7 copy of an amended pleading, motion, order or other paper from which it may first
8 be ascertained that the case is one which is or has become removable”); *Murphy*
9 *Bros., Inc. v. Michetti Pipe Stringing, Inc.* 526 U.S. 344, 354 (1999) (faxed file-
10 stamped copy of complaint did not trigger removal period).

11 5. As set forth more fully in paragraphs 2 and 3, service of the Summons
12 and Complaint on Home Depot was effective on June 7, 2011. Therefore, removal is
13 timely, as the action is being removed within 30 days of service.

14 **III.**

15 **COMPLETE DIVERSITY EXISTS BETWEEN THE PARTIES**

16 6. Home Depot is informed and believes that Plaintiff is a citizen of the
17 State of California and is domiciled in the County of Orange, California, and was so
18 domiciled at the time of filing of the Complaint.

19 7. Home Depot was at the time the Complaint was filed, and still is,
20 incorporated in the State of Delaware.

21 8. The Supreme Court recently established the proper test for determining
22 a corporation’s principal place of business for purposes of diversity jurisdiction.
23 *Hertz Corp. v. Friend*, 559 U.S. ____ (February 23, 2010); 130 S. Ct. 1181 (2010),
24 2010 WL 605601. The Court held that the “‘principal place of business’ [as
25 contained in section 1332(c)] is best read as referring to the place where a
26 corporation’s officers direct, control, and coordinate the corporation’s activities.” *Id.*
27 at *2. The Court further clarified that the principal place of business was the place
28

1 where the corporation “maintains its headquarters - provided that the headquarters is
2 the actual center of direction, control and coordination.” *Id.*

3 9. Home Depot’s principal place of business is in the State of Georgia as
4 Home Depot performs the vast majority of its executive and administrative functions
5 at its corporate headquarters located in that location. Moreover, as a national
6 corporation that conducts business in 49 of 50 states, Home Depot’s business
7 activities do not substantially predominate in a single state by virtue of doing more
8 business in that state. *Arellano v. Home Depot U.S.A., Inc.*, 245 F. Supp. 2d 1102,
9 1107 (S.D. Cal. 2003) (denying motion to remand, holding that Home Depot was a
10 citizen of Delaware (state of incorporation) and Georgia (principal place of
11 business), and complete diversity of citizenship existed between it and plaintiff, a
12 California citizen). Accordingly, Home Depot does not perform a “substantial
13 predominance” of corporate operations in any single state. *See Montrose Chemical*
14 *v. American Motorists Ins. Co.*, 117 F.3d 1128, 1134 (9th Cir. 1997) (holding that a
15 corporation’s principal place of business is the state in which it performs a
16 substantial predominance of its corporate operations and, when no state contains a
17 substantial predominance of the corporation’s business activities, then the
18 corporation’s principal place of business is the state in which the corporation
19 performs its executive and administrative functions).

20 10. If a party is a corporation, it is a citizen of both its state of incorporation
21 and the state where it has its principal place of business. 28 U.S.C. § 1332(c)(1).
22 Accordingly, Home Depot is (and was at the time of filing of the Complaint) a
23 citizen of the States of Delaware and Georgia.

24 11. Therefore, complete diversity among the parties not only exists now, but
25 did also at the time of the filing of this action on June 1, 2011. Thus, this timely
26 Petition is based on complete diversity of the parties: Plaintiff is a citizen of the
27 State of California and Home Depot is a citizen of the States of Delaware and
28 Georgia.

IV.

**THE JURISDICTIONAL MINIMUM IS EASILY MET ON THE FACE OF
THE COMPLAINT**

12. This Court's jurisdictional minimum, an amount in controversy in excess of \$75,000, was satisfied at the time of the filing of this action, and still is satisfied, by the facts set forth herein and more specifically described below. Home Depot discusses below the allegations in Plaintiff's Complaint that are the subject of this matter solely to demonstrate that the amount in controversy in this matter exceeds \$75,000.00. In doing so, Home Depot does not admit that Plaintiff is entitled to these damages or that Plaintiff will be able to recover on any of his theories.

13. The Court may, for removal purposes, look to the removal papers for underlying facts establishing the jurisdictional limit. *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992). Here, Plaintiff has pled for the recovery of punitive damages. *See* Complaint, ¶¶ 9, 11, 13, 15, and Prayer at ¶ 2. "Where both actual and punitive damages are recoverable under a complaint each must be considered to the extent claimed in determining jurisdictional amount." *Bell vs. Preferred Life Assurance Society*, 320 U.S. 238, 240 (1943); *see Davenport v. Mutual Ben. Health & Acc. Ass'n*, 325 F.2d 785 (9th Cir. 1963) (punitive damages are included in calculating the amount in controversy).

14. Moreover, Plaintiff alleges that, as a proximate result of Home Depot's conduct, he has suffered "emotional distress." *See* Complaint, ¶¶ 10, 11, 13, and 15.

15. Furthermore, Plaintiff alleges he is entitled to recover attorneys' fees and costs pursuant to the California *Government Code*. *Id.* at Prayer at ¶ 6.

16. Therefore, it is factually apparent from the body of the Complaint that the claim exceeds the jurisdictional amount. *Luckett v. Delta Airlines*, 171 F.3d 295, 298 (5th Cir. 1999) (holding claims exceeded \$75,000 as alleged in the complaint because there were alleged damages for property, travel expenses, an emergency

1 ambulance trip, a six day stay in the hospital, pain and suffering, humiliation, and
 2 temporary inability to do housework). *White v. FCI USA, Inc.*, 319 F.3d 672, 674
 3 (5th Cir. 2003) (holding that plaintiff's wrongful termination claim exceeded
 4 \$75,000 based on her "lengthy list of compensatory and punitive damages" (loss of
 5 pay, fringe benefits, impaired earning capacity, harm to credit, emotional distress,
 6 etc.) combined with a claim for attorney's fees).

7 17. As demonstrated above, numerous cumulative and alternative bases
 8 exist to establish that the damages sought by Plaintiff exceed the Court's
 9 jurisdictional minimum. As the alleged damages far exceed this Court's
 10 jurisdictional limit and as the parties are of diverse citizenship, removal is proper.

11 V.

12 **CONCLUSION**

13 18. Because this civil action is between citizens of different states and the
 14 matter in controversy exceeds \$75,000, exclusive of interest and costs, Home Depot
 15 respectfully requests that this Court exercise its removal jurisdiction over this action.

16 19. In the event this Court has a question regarding the propriety of this
 17 Notice of Removal, Defendant requests that it issue an Order to Show Cause so that
 18 it may have an opportunity to more fully brief the Court on the basis for this
 19 removal.

20
 21 DATED: July 6, 2011

OGLETREE, DEAKINS, NASH,
 SMOAK & STEWART, P.C.

22
 23
 24 By:  

Michael J. Sexton
 Daniel A. Adlong

25
 26 Attorneys for Defendant THE HOME
 27 DEPOT U.S.A, INC.
 28

EXHIBIT A

CONFORMED

1 JOSEPH S. DZIDA - Bar No. 89459
 2 jdzida@crdattorneys.com
 3 THEODORE S. KHACHATURIAN - Bar No. 239137
 4 tkhachaturian@crdattorneys.com
 5 CALLANAN, ROGERS & DZIDA, LLP
 800 South Figueroa Street, Eleventh Floor
 Los Angeles, California 90017-2521
 Telephone: (213) 599.7595
 Facsimile: (213) 599.7596

FILED
 SUPERIOR COURT
 COUNTY OF SAN BERNARDINO
 RANCHO CUCAMONGA DISTRICT

JUN -1 2011

Rosanne R. Raa
 Deputy

6 Attorneys for Plaintiff
 7 CHRIS CORY COMLEY

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 9 **COUNTY OF SAN BERNARDINO, RANCHO CUCAMONGA COURT**

10
 11 CHRIS CORY COMLEY,

12 Plaintiff,

13 v.

14 HOME DEPOT USA, INC., a Delaware
 15 corporation; and DOES 1-100,

16 Defendants.

Case No.

CVS 1105339

**Complaint For Wrongful Termination
 Of Employment under Fair Employment
 and Housing Act; Wrongful Disability
 Discrimination; Failure to
 Accommodate; Retaliation**

Demand For Jury Trial

17
 18 **INTRODUCTION**

19
 20 1. Plaintiff is a 52 year old male, and United States citizen.

21
 22 2. On or about October 17, 1994, plaintiff was hired by defendant Home Depot
 23 USA, Inc., a Delaware corporation ("Home Depot") as a sales "associate," assisting and
 24 advising Home Depot customers on the sales floor of, first, a Home Depot store in Upland,
 25 California, and, then, a Home Depot store in Rancho Cucamonga, California. Plaintiff's
 26 particular interest and specialty was plumbing.

27
 28 3. Plaintiff received consistently good reviews and was offered promotions.

COMPLAINT FOR WRONGFUL TERMINATION

1
2 4. In November of 2008, plaintiff suffered a devastating personal tragedy; his
3 nephew murdered his older sister. This threw plaintiff into a spiral of depression. In addition,
4 plaintiff has a developmentally disabled daughter, with whom he needs time at home.
5 Nevertheless, he continued to perform his duties at Home Depot satisfactorily. However, over
6 time, Home Depot began to engage in a wrongful course of conduct. Plaintiff is informed and
7 believes and thereon alleges that this course of conduct was motivated in whole or in part by
8 illegal discrimination against plaintiff due to his actual or perceived disability/depression.
9 Among other things, as part of this course of conduct, Home Depot:

10
11 (a) Changed plaintiff's schedule (which had been in place for many
12 years), from Tuesday, Wednesday, Friday and Saturday evenings to only
13 Saturday and Sunday in the middle of the day, despite knowing that plaintiff
14 was suffering and vulnerable because of his depression and despite knowing
15 that plaintiff needed Sundays off for family and church.
16

17 (b) Accused plaintiff falsely of violating Home Depot's so-called
18 "respect" policy, when plaintiff became upset and angry about Home Depot's
19 arbitrary action (Home Depot accused plaintiff of doing this on days during the
20 week when plaintiff had not worked for 12 years).
21

22 (c) Terminated plaintiff on or about July 3, 2010, without
23 implementing any reasonable accommodation due to his depression; including
24 time off or counseling, and, including acting on plaintiff's request for a transfer
25 to less stressful work.
26

27 (e) Terminating plaintiff on or about July 3, 2010, despite the above.
28

5. After his termination, plaintiff complained to the California Department of Fair Employment and Housing and obtained a right to sue letter as to Home Depot. True and correct copies of the complaint, right to sue letter and associated documents are attached and incorporated by reference as Exhibit 1.

6. Plaintiff does not know the true names and capacities of defendants DOES 1—100 but alleges that they are each responsible in whole or in part for the misconduct alleged in this complaint.

FIRST CAUSE OF ACTION

**(Wrongful Termination in Violation of Fair Employment and Housing Act
—as to all defendants.)**

7. Plaintiff incorporates by reference paragraphs 1 through 7 above as though set forth at length.

8. Plaintiff is informed and believes and thereon alleges that Home Depot's termination of plaintiff on or about July 3, 2010, was a wrongful termination in violation of the California Fair Employment and Housing Act, and the public policies embodied therein, in that the termination was motivated in whole or significant part by plaintiff's actual or perceived disability/depression.

9. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, so conducted themselves intentionally and maliciously in conscious disregard of plaintiff's rights. Managing agents of defendant Home Depot (including John Sickenger, manager of the Rancho Cucamonga store) directly participated in and/or ratified this misconduct. Plaintiff, therefore, seeks punitive damages in an amount according to proof.

1
2 10. This misconduct was also the legal cause of damage to plaintiff, including lost
3 wages and benefits, emotional distress, expense incurred in trying to save plaintiff's family
4 home, and job search expenses, in an amount according to proof.

5
6 **SECOND CAUSE OF ACTION**

7
8 **(Discrimination Against Actual or Perceived Disability in Violation of**
9 **California Fair Employment and Housing Act—as to all defendants.)**

10
11 11. Plaintiff incorporates by reference paragraphs 1 through 10 above as though set
12 forth at length.

13
14 12. The conduct of defendant's and each of them, as alleged in paragraph 4 above,
15 constituted illegal discrimination against plaintiff due to his actual or perceived disability,
16 depression:

17
18 **THIRD CAUSE OF ACTION**

19
20 **(Failure to Reasonably Accommodate—as to all defendants.)**

21
22 13. Plaintiff hereby incorporates the allegations set forth in paragraphs 1 through 10
23 above as though fully set forth at length herein.

24
25 14. The conduct of defendant's and each of them, as alleged in paragraph 4 above,
26 constituted a failure to reasonably accommodate plaintiff's disability/depression in violation
27 of the California Fair Employment and Housing Act.
28

1
2 **FOURTH CAUSE OF ACTION**
3

4 **(Wrongful Retaliation—as to all defendants.)**
5

6 15. Plaintiff hereby incorporates the allegations set forth in paragraphs 1 through 10
7 above as though fully set forth at length herein.
8

9 16. The conduct of defendant's and each of them, as alleged in paragraph 4 above,
10 constituted wrongful retaliation against plaintiff because he became upset at Home Depot's
11 illegal treatment of and failure to reasonably accommodate his disability/depression and
12 because plaintiff requested reasonable accommodation.
13

14
15 **DEMAND FOR JURY TRIAL**
16

17
18 17. Plaintiff requests a jury trial.
19

20 WHEREFORE, plaintiff prays judgment as follows against defendants, and each of them:
21

22 1. For damages in an amount according to proof in a sum that is more than the
23 jurisdictional limit for a limited civil case.
24

25 2. For punitive damages in an amount according to proof.
26
27
28

1 3. For reinstatement in plaintiff's position prior to termination with back pay and
2 benefits.

3
4 4. For interest on the damages awarded at the legal rate.

5
6 5. For costs of suit.

7
8 6. For attorneys' fees and litigation expenses, as permitted by the California Fair
9 Employment and Housing Act.

10
11 7. For such other and further relief as this court deems just and proper.

12
13 DATED: May 31, 2011

CALLANAN, ROGERS & DZIDA, LLP
JOSEPH S. DZIDA
THEODORE S. KHACHATURIAN

14
15
16
17 By: 

Joseph S. Dzida

Attorneys for Plaintiff CHRIS CORY COMLEY

18
19 G:\CYNTHIA\Comley\Hearing\complaint.doc

EXHIBIT 1



STATE OF CALIFORNIA - STATE AND CONSUMER SERVICES AGENCY

EDMUND G. BROWNE, JR., Governor

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

1055 WEST 7TH STREET, SUITE 1400, LOS ANGELES, CA 90017
(213) 438-6770
www.dfeh.ca.gov

Phyllis W. Cheng, Director

May 10, 2011

RE: E201011R7709-00
COMLEY/HOME DEPOT U.S.A., INC.

NOTICE TO COMPLAINANT'S ATTORNEY

Enclosed is a copy of your client's complaint of discrimination filed with the Department of Fair Employment and Housing (DFEH) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also enclosed is a copy of your client's Notice of Case Closure, which constitutes your client's right-to-sue notice. Pursuant to Government Code section 12962, DFEH will not serve these documents on the employer.

Please refer to the enclosed Notice of Case Closure for information regarding filing a private lawsuit in the State of California.

Sincerely,

Tina Walker

Tina Walker
District Administrator

Enclosure: Complaint of Discrimination
Notice of Case Closure

DFEH-200-06 (01/08)

EXHIBIT 1, PAGE 7

EXHIBIT A - PAGE 14



STATE OF CALIFORNIA - STATE AND CONSUMER SERVICES AGENCY

EDMUND G. BROWN, JR., Governor

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

Phyllis W. Cheng, Director

1055 WEST 7TH STREET, SUITE 1400, LOS ANGELES, CA 90017
(213) 438-8770
www.dfeh.ca.gov

May 10, 2011

COMLEY, CHRIS CORY
14957 GRANITE PEAK AVENUE
FONTANA, CA 92336

RE: E201011R7709-00
COMLEY/HOME DEPOT U.S.A., INC.

Dear COMLEY, CHRIS CORY:

NOTICE OF CASE CLOSURE

This letter informs that the above-referenced complaint that was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective May 10, 2011 because an immediate right-to-sue notice was requested. DFEH will take no further action on the complaint.

This letter is also the Right-To-Sue Notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

If a federal notice of Right-To-Sue is wanted, the U.S. Equal Employment Opportunity Commission (EEOC) must be visited to file a complaint within 30 days of receipt of this DFEH *Notice of Case Closure* or within 300 days of the alleged discriminatory act, whichever is earlier.

EXHIBIT 1, PAGE 8

EXHIBIT A - PAGE 15

Notice of Case Closure
Page Two

DFEH does not retain case files beyond three years after a complaint is filed; unless the case is still open at the end of the three-year period.

Sincerely,



Tina Walker
District Administrator

cc: Case File

JOHN SICKENGER
MANAGER
HOME DEPOT U.S.A., INC.
11884 FOOTHILL BOULEVARD
RANCHO CUCAMONGA, CA 91730

DFEH-200-43 (06/06)

EXHIBIT 1, PAGE 9

EXHIBIT A - PAGE 16

*** EMPLOYMENT ***

COMPLAINT OF DISCRIMINATION UNDER
THE PROVISIONS OF THE CALIFORNIA
FAIR EMPLOYMENT AND HOUSING ACTDFEH # E201011B7709-00

DFEH USE ONLY

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

YOUR NAME (Indicate Mr. or Ms.)

COMLEY, CHRIS CORY

TELEPHONE NUMBER (INCLUDE AREA CODE)

(809)899-7524

ADDRESS

14957 GRANITE PEAK AVENUE

CITY/STATE/ZIP

FONTANA, CA 92338

COUNTY

SAN BERNARDINO

COUNTY CODE

071NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY WHO
DISCRIMINATED AGAINST ME:

NAME

HOME DEPOT U.S.A., INC.

TELEPHONE NUMBER (Include Area Code)

(909)948-9200

ADDRESS

11804 FOOTHILL BLVD.

CITY/STATE/ZIP

RANCHO CUCAMONGA, CA 91730

COUNTY

SAN BERNARDINO

COUNTY CODE

071

NO. OF EMPLOYEES/MEMBERS (if known)

30+DATE MOST RECENT OR CONTINUING DISCRIMINATION
TOOK PLACE (month, day, and year)07/03/2010

RESPONDENT CODE

00

THE PARTICULARS ARE:

I allege that on about or before
07/03/2010, the following
conduct occurred:

<input checked="" type="checkbox"/> harassment	<input type="checkbox"/> denial of employment	<input type="checkbox"/> denial of family or medical leave
<input type="checkbox"/> false or	<input type="checkbox"/> denial of promotion	<input type="checkbox"/> denial of pregnancy leave
<input type="checkbox"/> demotion	<input type="checkbox"/> denial of transfer	<input type="checkbox"/> denial of equal pay
<input type="checkbox"/> harassment	<input checked="" type="checkbox"/> denial of accommodation	<input type="checkbox"/> denial of right to work pants
<input type="checkbox"/> genetic characteristics testing	<input type="checkbox"/> failure to prevent discrimination or retaliation	<input type="checkbox"/> denial of pregnancy accommodation
<input type="checkbox"/> constructive discharge (forced to quit)	<input checked="" type="checkbox"/> retaliation	
<input type="checkbox"/> impermissible non-job related inquiry	<input checked="" type="checkbox"/> other (specify) <u>NO MEANINGFUL INTERACTIVE PROCESS</u>	
		<u>RE ACCOM.</u>

by HOME DEPOT U.S.A., INC.

Name of Person

Job Title (supervisor/manager/personnel director/etc.)

because of:

<input type="checkbox"/> sex	<input type="checkbox"/> national origin/ancestry	<input checked="" type="checkbox"/> disability (physical or mental)	<input checked="" type="checkbox"/> retaliation for engaging in protected activity or requesting a protected leave or accommodation
<input type="checkbox"/> age	<input type="checkbox"/> marital status	<input type="checkbox"/> medical condition (cancer or genetic characteristic)	
<input type="checkbox"/> religion	<input type="checkbox"/> sexual orientation	<input checked="" type="checkbox"/> other (specify) <u>MEDICAL CONDITIONS AND MEDICATIONS FOR DISAB.</u>	
<input type="checkbox"/> race/color	<input type="checkbox"/> ancestry		

State of what you
believe to be the
reason(s) for
discrimination

EMPLOYEE WAS TERMINATED ON JULY 3, 2010. EMPLOYEE IS INFORMED AND BELIEVES AND THEREON ALLEGES THAT DISCRIMINATION DUE TO ACTUAL OR PERCEIVED DISABILITY (DEPRESSION); RETALIATION AND FAILURE TO ACCOMMODATE DUE TO SUCH ACTUAL OR PERCEIVED DISABILITY; AND FAILURE TO ENGAGE IN MEANINGFUL INTERACTIVE PROCESS RE SUCH ACCOMMODATION; WERE ALL SUBSTANTIAL FACTORS UNDERLYING THE TERMINATION.

I wish to pursue this matter in court. I hereby request that the Department of Fair Employment and Housing provide a right-to-sue. I understand that if I want a federal notice of right-to-sue, I must visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of the DFEH "Notice of Case Closure," or within 300 days of the alleged discriminatory act, whichever is earlier.

I have not been coerced into making this request, nor do I make it based on fear of retaliation. If I do not do so, I understand it is the Department of Fair Employment and Housing's policy to not process or reopen a complaint once the complaint has been closed on the basis of "Complainant Elects Court Action."

By submitting this complaint I am declaring under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated 05/10/2011At FONTANADATE FILED: 05/10/2011OFFICE 300-030 (0200)
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

STATE OF CALIFORNIA

EXHIBIT 1, PAGE 10

EXHIBIT A - PAGE 17

*** EMPLOYMENT ***

COMPLAINT OF DISCRIMINATION UNDER
THE PROVISIONS OF THE CALIFORNIA
FAIR EMPLOYMENT AND HOUSING ACT

DFEH # _____

DFEH USE ONLY

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

YOUR NAME (Indicate Mr. or Ms.) CHRIS CORY COMLEY TELEPHONE NUMBER (INCLUDE AREA CODE) 809-899-7524ADDRESS
14957 GRANITE PEAK AVENUECITY/STATE/ZIP
FONTANACOUNTY
SAN BERNARDINO

COUNTY CODE

NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME:

NAME
HOME DEPOT U.S.A., INC.TELEPHONE NUMBER (Include Area Code)
770-433-8211ADDRESS
2455 PACES FERRY ROAD, N.W.CITY/STATE/ZIP
ATLANTA, GA 30339

COUNTY

COUNTY CODE

NO. OF EMPLOYEES/MEMBERS (if known)
UNKNOWNDATE MOST RECENT OR CONTINUING DISCRIMINATION
TOOK PLACE (month, day, and year)JULY 3, 2010

RESPONDENT CODE

THE PARTICULARS ARE:

I allege that on JULY 3, 2010, the
following conduct occurred:
**TERMINATION DUE TO DISABILITY
DISCRIMINATION; RETALIATION AND
FAILURE TO ACCOMMODATE.**☒ termination☐ denial of employment☐ denial of family or medical leave☐ lay-off☐ denial of promotion☐ denial of pregnancy leave☐ demotion☐ denial of transfer☐ denial of unemployment☐ harassment☒ denial of accommodation☐ denial of right to work parts☐ genetic characteristics (testing)☐ failure to prevent discrimination or retaliation☐ denial of pregnancy accommodation☐ constructive discharge (forced to quit)☒ retaliation☐ inconsistent or non-job related testing☐ other (specify)by JOHN SICKENDERMANAGER, RANCHO CUCAMONGA, CALIFORNIA STORE

Name of Person

Job Title (supervisor/manager/personnel director/etc.)

because of:

☐ sex☐ marital status☒ disability (physical or mental)☒ retaliation for exercising or possessing☐ age☐ marital status☒ medical condition (current☐ ability or requesting a protected☐ religion☐ sexual orientation☐ genetic characteristics (past☐ leave or accommodation☐ race/color☐ Association☐ other (specify)**DISCRIMINATION DUE TO ACTUAL OR PERCEIVED DISABILITY; RETALIATION AND FAILURE TO
ACCOMMODATE DUE TO ACTUAL OR PERCEIVED DISABILITY.**State what you
believe to be the
reason(s) for
discrimination

I wish to pursue this matter in court. I hereby request that the Department of Fair Employment and Housing provide a right-to-sue notice. I understand that if I want a federal notice of right-to-sue, I must visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of the DFEH "Notice of Case Closure," or within 300 days of the alleged discriminatory act, whichever is earlier.

I have not been coerced into making this request, nor do I make it based on fear of retaliation if I do not do so. I understand it is the Department of Fair Employment and Housing's policy to not process or reopen a complaint once the complaint has been closed on the basis of "Complainant Elected Court Action."

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated: _____

COMPLAINANT'S SIGNATURE

At: _____

DFEH-500-03 (04/03)
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

STATE OF CALIFORNIA

American LegalNet, Inc.
www.FormsWorkshop.com

EXHIBIT 1, PAGE 11

EXHIBIT A - PAGE 18

EXHIBIT B

SUMMONS CONFORMED

(CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

HOME DEPOT USA, INC., a Delaware corporation;
and Does 1-100.

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**
CHRIS CORY COMLEY

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
RANCHO CUCAMONGA DISTRICT

JUN -1 2011

Roxanne R. Rea
Deputy

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **(AVISO!)** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

San Bernardino County Superior Court
Rancho Cucamonga Court
8303 Haven Avenue
Rancho Cucamonga, CA 91730

CASE NUMBER
(Número del Caso): 1106339

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

JOSEPH S. DZIDA CALLANAN, ROGERS & DZIDA, LLP

800 South Figueroa Street, Eleventh Floor

Los Angeles, California 90017-2521 Tel: 213.599.7595; Fax: 213.599.7596

DATE:

JUN 01 2011

(Fecha)

Clerk, by
(Secretario)

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)

NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):
- ☒ on behalf of (specify): *Home Depot USA, Inc.; A Delaware Corporation*
 - ☒ CCP 416.10 (corporation)
 - ☐ CCP 416.20 (defunct corporation)
 - ☐ CCP 416.40 (association or partnership)
 - ☐ other (specify):
- ☐ by personal delivery on (date):

EXHIBIT C

*You
Don't
Have to
Sue*

Here Are Some Other Ways



To Resolve a Civil Dispute

Presented by the
Judicial Council of California
And the
State Bar of California

Introduction

Did you know that most civil lawsuits settle without a trial?

And did you know that there are a number of ways to resolve civil disputes without having to sue somebody?

These alternatives to a lawsuit are known as alternative dispute resolution (ADR). The most common forms of ADR are mediation, arbitration, and case evaluation. There are a number of other kinds of ADR as well.

In ADR, trained, impartial persons decide disputes or help parties decide disputes themselves. These persons are called neutrals. For example, in mediation, the neutral is the mediator. Neutrals normally are chosen by the disputing parties or by the court. Neutrals can help parties resolve disputes without having to go to court.

ADR is not new. ADR is available in many communities, through dispute resolution programs and private neutrals.

Advantages of ADR

ADR can have a number of advantages over a lawsuit.

- **ADR can be speedier.** A dispute often can be resolved in a matter of months, even weeks, through ADR, while a lawsuit can take years.
- **ADR can save money.** Court costs, attorneys' fees, and expert fees can be saved.
- **ADR can permit more participation.** The parties may have more chances to tell their side of the story than in court and may have more control over the outcome.
- **ADR can be flexible.** The parties can choose the ADR process that is best for them. For example, in mediation the parties may decide how to resolve their dispute.
- **ADR can be cooperative.** This means that the parties having a dispute may work together with the neutral to resolve the dispute and agree to a remedy that makes sense to them, rather than work against each other.
- **ADR can reduce stress.** There are fewer, if any, court appearances. And because ADR can be speedier, and save money, and because the parties are normally cooperative, ADR is easier on the nerves. The parties don't have a lawsuit hanging over their heads for years.

- **ADR can be more satisfying.** For all the above reasons, many people have reported a high degree of satisfaction with ADR.

Because of these advantages, many parties choose ADR to resolve a dispute, instead of filing a lawsuit. Even when a lawsuit has been filed, the court can refer the dispute to a neutral before the parties' positions harden and the lawsuit becomes costly. ADR has been used to resolve disputes even after a trial, when the result is appealed.

Disadvantages of ADR

ADR may not be suitable for every dispute.

- If ADR is binding, the parties normally give up most court protections, including a decision by a judge or jury under formal rules of evidence and procedure, and review for legal error by an appellate court.
- There generally is less opportunity to find out about the other side's case with ADR than with litigation. ADR may not be effective if it takes place before the parties have sufficient information to resolve the dispute.
- The neutral may charge a fee for his or her services.
- If a dispute is not resolved through ADR, the parties may have to put time and money into both ADR and a lawsuit.
- Lawsuits must be brought within specified periods of time, known as statutes of limitation. Parties must be careful not to let a statute of limitations run out while a dispute is in an ADR process.

Three Common Types of ADR

This pamphlet describes the forms of ADR most often found in the California state courts and discusses when each may be right for a dispute.

- **MEDIATION**

In mediation, a neutral (the mediator) assists the parties in reaching a mutually acceptable resolution of their dispute. Unlike lawsuits or some other types of ADR, the mediator does not decide how the dispute is to be resolved. The parties do.

Mediation is a cooperative process, in which the parties work together toward a resolution that tries to meet everyone's interests, instead of working against each other, where at least one party loses. Mediation normally leads to better relations between the parties and to resolutions that hold up. For example, mediation has been very successful in family disputes, particularly with child custody and visitation.

Mediation is particularly effective when the parties have a continuing relationship, like neighbors or business people. Mediation also is very effective where personal feelings are getting in the way of a resolution. This is because mediation normally gives the parties a chance to let out their feelings and find out how each other sees things.

Mediation may not be a good idea when one party is unwilling to discuss a resolution or when one party has been a victim of the other or cannot have enough bargaining power in the mediation. However, mediation can be successful for victims seeking restitution from offenders. A mediator can meet with the parties separately when there has been violence between them.

• ARBITRATION

In arbitration, a neutral (the arbitrator) reviews evidence, hears arguments, and makes a decision (award) to resolve the dispute. This is very different from mediation, where the mediator helps the parties reach their own resolution. Arbitration normally is more informal and much speedier and less expensive than a lawsuit. Because of the large number of cases awaiting trial in many courts, a dispute normally can be heard much more quickly by an arbitrator than by a judge. Often a case that may take a week to try in court can be heard by an arbitrator in a matter of hours, because evidence can be submitted by documents (like medical reports and bills and business records), rather than testimony.

There are two kinds of arbitration in California. Private arbitration, by agreement of the parties involved in the dispute, takes place outside of the courts and normally, is binding. In most cases "binding" means that the arbitrator's decision (award) is final and there will not be a trial or an appeal of that decision. By contrast, a decision by an arbitrator in a case referred by the courts, known as "judicial arbitration," is not binding, unless parties agree to be bound. A party who does not like the award may file a request for trial with the court within a specified time. However, if that party does not do better in the trial than in arbitration, he or she may have to pay a penalty.

Arbitration is best for cases where the parties want a decision without the expense of a trial. Arbitration may be better than mediation when the parties have no relationship except for the dispute.

Arbitration may not be a good idea when the parties want to resolve their dispute by themselves, or with the aid of a neutral.

• CASE EVALUATION

In case evaluation, a neutral (the evaluator) gives an opinion on the strengths and weaknesses of each party's evidence and arguments, and makes an evaluation of the case. Each party gets a chance to present the case and hear the other side. This may lead to a settlement, or at least help the parties prepare to resolve the dispute later on.

Case evaluation, like mediation, can come early in the dispute and save time and money.

Case evaluation is most effective when someone has an unrealistic view of the dispute or when the only real issue is what the case is worth, or when there are technical or scientific questions to be worked out.

Case evaluation may not be a good idea when it is too soon to tell what the case is worth or when the dispute is about something besides money, like a neighbor playing loud music late at night.

Additional Information

There are several other types of ADR beside mediation, arbitration, and case evaluation. Some of these are conciliation, settlement conferences, fact finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR types. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute.

The selection of a neutral is an important decision. There is no legal requirement that the neutral to be licensed or hold any particular certificate. However, some programs have established qualification requirements for neutrals. You may wish to inquire about the qualifications of any neutral you are considering.

Agreements reached through ADR normally are put in writing by the neutral and, if the parties wish, may become binding contracts that can be enforced by a judge.

You may wish to seek the advice of an attorney as to your legal rights and other matters relating to the dispute.

Whom Do You Call?

To locate a dispute resolution program or neutral in your community:

- Contact the California Department of Consumer Affairs, Consumer Information Center, toll free, 1-800-952-5210, or
- Contact the local bar association, or
- Look in the Yellow Pages under "Arbitrations" or "Mediators."

There may be a charge for services provided by private arbitrators and mediators.

**Superior Court of California
County of San Bernardino**



CONTRACTED MEDIATION SERVICE PROVIDERS

The following mediation service providers are under contract with the County of San Bernardino to provide the listed alternate dispute resolution (ADR) services under referral by the Court at no or low cost. The contractors may also provide additional mediation services outside of their contracts with the County.

Landlord-tenant, unlawful detainer, small claims:

Inland Fair Housing and Mediation Board

Program Director: Lynne Anderson, Executive Director

City Center Building

10681 Foothill Boulevard, Suite 101

Rancho Cucamonga CA 91730

TEL (909) 984-2254, or (800) 321-0911

FAX (909) 460-0274

WEB www.inmedbd.com

Civil, family law (except custody and support):

Inland Valleys Justice Center

Program Director: Kym Adams, Executive Director

3175-E Sedona Court (Building E)

Ontario CA 91764

TEL (909) 581-6014

FAX (909) 581-6015

WEB www.ivjc.org

EMAIL info@ivjc.org

Accommodations For Persons With Disabilities Using Court Facilities

The Americans with Disabilities Act (ADA) and State law require all state and local governmental entities, including the courts, to provide reasonable accommodations for the needs of persons with disabilities. The ADA benefits people who have an interest in court activities, programs and services. In 1996 the Judicial Council of California, the policy-making body for the courts, adopted California Rules of Court, rule 1.100 (former rule 988.3) to implement the ADA in the state court system.

Under the ADA, State laws, and the court rule, a person is entitled to an accommodation if he or she is an "eligible person with a disability." This means the person has a physical or mental impairment that limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.

It is the individual's responsibility to contact the court to request accommodations that would best suit his or her situation. The individual may request an accommodation by completing the *Request for Accommodations by Persons with Disabilities* (Judicial Council Form MC-410) or by other means, and provide the request to court staff. If the individual is involved in more than one case, they must submit a separate request (MC-410 form) for each case. The individual should give the court at least five working days notice whenever possible. The court may grant, modify or deny the request. The information presented will be kept confidential unless ordered released by a Judicial officer, or a written waiver of confidentiality is received from the requestor.

The court will evaluate all requests to make reasonable modifications to its policies, practices, and procedures when these modifications are necessary to avoid discriminating against a person because of a disability.

Service animals are permitted in court facilities. The ADA defines a service animal as any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability. Service animals may go to all areas of the court where customers are normally allowed.

For instructions, forms, and additional information, please use the links on the right side of this page.

For free tools that allow persons with visual disabilities to read documents in Adobe Acrobat PDF format, please visit: <http://www.adobe.com/enterprise/accessibility/main.html>. These tools convert PDF documents into either HTML or ASCII text that can then be read by many screen-reading programs.


For further information:


Jurors: Please contact the Jury Services Office at (909) 387-6244.

Others: Please contact the court's ADA Coordinator at ada.coordinator@courts.sbcounty.ca.gov.

Court employees: To request accommodation for yourself, please contact your supervisor or the Court's Personnel Department. For information on assisting court customers with ADA issues, refer to the Court's Intranet.

If you should have any questions or concerns regarding Americans with Disabilities, please contact Sharon Prentiss, Director of Court Administrative Services at (909) 382-3504.

[Request for Accommodation Instruction Sheet](#) 
Non Fillable Form and Rule of Court 1

[Request for Accommodation Form](#) 
Fillable Version (MC-410)

Q&A on Rule of Court 1.100

[Access and Fairness Advisory Flyer](http://www.courtinfo.ca.gov/programs/access/documents/accfair.pdf) <http://www.courtinfo.ca.gov/programs/access/documents/accfair.pdf>

For Additional Information about Accessibility at the California Courts:

<http://www.courtinfo.ca.gov/programs/access/accessibility.htm>

<http://www.courtinfo.ca.gov/selfhelp/family/specced/speccedlinks.htm>

EXHIBIT D

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

COMLEY

CONFORMED

Case No. 1106339

vs.

CERTIFICATE OF ASSIGNMENT

HOME DEPOT

A civil action or proceeding presented for filing must be accompanied by this certificate. If the ground is the residence of a party, name and residence shall be stated.

The undersigned declares that the above-entitled matter is filed for proceedings in the Rancho Cucamonga District of the Superior Court under Rule 404 of this court for the checked reason:

- | <input checked="" type="checkbox"/> General | | <input type="checkbox"/> Collection |
|---|--|--|
| Nature of Action | | Ground |
| <input type="checkbox"/> 1 | Adoption | Petitioner resides within the district. |
| <input type="checkbox"/> 2 | Conservator | Petitioner or conservatee resides within the district. |
| <input type="checkbox"/> 3 | Contract | Performance in the district is expressly provided for. |
| <input type="checkbox"/> 4 | Equity | The cause of action arose within the district. |
| <input type="checkbox"/> 5 | Eminent Domain | The property is located within the district. |
| <input type="checkbox"/> 6 | Family Law | Plaintiff, defendant, petitioner or respondent resides within the district. |
| <input type="checkbox"/> 7 | Guardianship | Petitioner or ward resides within the district or has property within the district. |
| <input type="checkbox"/> 8 | Harassment | Plaintiff, defendant, petitioner or respondent resides within the district. |
| <input type="checkbox"/> 9 | Mandate | The defendant functions wholly within the district. |
| <input type="checkbox"/> 10 | Name Change | The petitioner resides within the district. |
| <input type="checkbox"/> 11 | Personal Injury | The injury occurred within the district. |
| <input type="checkbox"/> 12 | Personal Property | The property is located within the district. |
| <input type="checkbox"/> 13 | Probate | Decedent resided or resides within the district or had property within the district. |
| <input type="checkbox"/> 14 | Prohibition | The defendant functions wholly within the district. |
| <input type="checkbox"/> 15 | Review | The defendant functions wholly within the district. |
| <input type="checkbox"/> 16 | Title to Real Property | The property is located within the district. |
| <input type="checkbox"/> 17 | Transferred Action | The lower court is located within the district. |
| <input type="checkbox"/> 18 | Unlawful Detainer | The property is located within the district. |
| <input type="checkbox"/> 19 | Domestic Violence | The petitioner, defendant, plaintiff or respondent resides within the district. |
| <input checked="" type="checkbox"/> 20 | Other <u>EMPLOYMENT; AROSE IN DISTRICT WHERE IT WAS TO WORK</u> | |
| <input type="checkbox"/> 21 | THIS FILING WOULD NORMALLY FALL WITHIN JURISDICTION OF SUPERIOR COURT. | |

The address of the accident, performance, party, detention, place of business, or other factor which qualifies this case for filing in the above-designated district is:

Home Depot	11884 Foothill Blvd	
(NAME, INDICATE TITLE OR OTHER QUALIFYING FACTOR)	ADDRESS	
Rancho Cucamonga	CA	91730
(CITY)	(STATE)	(ZIP CODE)

I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was executed on May 21, 2011 at Los Angeles, California

Joseph S. Smith
Signature of Attorney/Party

EXHIBIT E

RANCHO CUCAMONGA DISTRICT
8303 NORTH HAVEN AVENUE
RANCHO CUCAMONGA, CA 91730

FILED
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO
COUNTY OF SAN BERNARDINO
RANCHO CUCAMONGA DISTRICT

JUN -1 2011

CASE NO: CIVRS1105339

<http://www.sbcounty.gov/courts>

IN RE: CHRIS COMLEY -V- HOME DEPOT USA INC

NOTICE OF CASE ASSIGNMENT FOR ALL PURPOSES
NOTICE OF CASE MANAGEMENT CONFERENCE AND ORDER TO SHOW CAUSE
REGARDING SERVICE OF SUMMONS AND COMPLAINT

PLEASE TAKE NOTICE, that the above-entitled case has been set for a Case Management Conference and an Order to Show Cause why the case should not be dismissed for failure to serve the summons and complaint. File your Case Management Statement with the court fifteen (15) calendar days prior to the hearing. Failure to appear may result in monetary sanctions and/or dismissal of your case. THIS CASE HAS BEEN ASSIGNED TO JOSEPH R. BRISCO IN DEPARTMENT R10 FOR ALL PURPOSES.

The Order to Show Cause regarding service of summons is set: 08/31/11 at 8:30 in Department R10. If proof of service of summons and complaint has been filed before that date, no appearance is required at the time of the Order to Show Cause hearing. The Case Management Conference is set: 10/28/11 at 8:30 in Department R10.

TO THE PARTY SERVED: The setting of these dates DOES NOT increase the time you have to respond to the complaint. The time for response is clearly stated on the Summons.

A COPY OF THIS NOTICE MUST BE SERVED ON ALL DEFENDANTS

Tressa S. Kentner, Clerk of the Court

Date: 06/01/11

By: ROXIE REA

CERTIFICATE OF SERVICE

I am a Deputy Clerk of the Superior Court for the County of San Bernardino at the above listed address. I am not a party to this action and on the date and place shown below, I served a copy of the above listed notice by:

- () Enclosed in an envelope mailed to the interested party addressed above, for collection and mailing this date, following ordinary business practice.
- () Enclosed in a sealed envelope, first class postage prepaid in the U.S. mail at the location shown above, mailed to the interested party and addressed as shown above, or as shown on the attached listing.
- () A copy of this notice was given to the filing party at the counter.
- () A copy of this notice was placed in the bin located at this office and identified as the location for the above law firm's collection of file stamped documents.

DATE OF MAILING: 06/01/11

I declare under penalty of perjury that the foregoing is true and correct. Executed on 06/01/11 at Rnch Cucamonga, CA By: ROXIE REA

EXHIBIT F

CONFORMED

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): JOSEPH S. DZIDA - Bar No. 89439 CALLANAN, ROGERS & DZIDA, LLP 800 South Figueroa Street, Eleventh Floor Los Angeles, California 90017-2521 TELEPHONE NO.: (213) 599.7595 FAX NO.: (213) 599.7596 ATTORNEY FOR (Name): CHRIS CORY COMLEY		FOR COURT USE ONLY FILED SUPERIOR COURT COUNTY OF SAN BERNARDINO RANCHO CUCAMONGA DISTRICT JUN -1 2011 <i>Roxanne R. Rea</i> Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO STREET ADDRESS: 8303 Haven Avenue MAILING ADDRESS: 8303 Haven Avenue CITY AND ZIP CODE: Rancho Cucamonga, CA 91730 BRANCH NAME: RANCHO CUCAMONGA COURT		
CASE NAME: COMLEY v. HOME DEPOT		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	
Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		CASE NUMBER: CV11-1106339 JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:		
Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PIP/DWD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIP/DWD (23) Non-PIP/DWD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (10) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIP/DWD tort (35) Employment <input checked="" type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): **4**
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

 Date: **May 31, 2011**
JOSEPH S. DZIDA

(TYPE OR PRINT NAME)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

 Form Adopted for Mandatory Use
 Judicial Council of California
 CM-010 (Rev. July 1, 2007)

CIVIL CASE COVER SHEET

 Cal. Rules of Court, rules 2.30, 3.220, 3.400-3.403, 3.740;
 Cal. Standards of Judicial Administration, std. 3.10
www.courtinfo.ca.gov

 American LegalNet, Inc.
www.FamilyWorkFlow.com

EXHIBIT G

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
RANCHO CUCAMONGA DISTRICT

JUL 05 2011

BY Kimberly Harrison
DEPUTY

1 Michael J. Sexton CA Bar No. 153435
michael.sexton@ogletreedeakins.com
2 Daniel A. Adlong CA Bar No. 262301
daniel.adlong@ogletreedeakins.com
3 OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
Park Tower, Suite 1500
4 695 Town Center Drive
Costa Mesa, CA 92626
5 Telephone: 714.800.7900
Facsimile: 714.754.1298

6 Attorneys for Defendant THE HOME DEPOT U.S.A., INC.
7 (erroneously named as HOME DEPOT USA, INC.)

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SAN BERNARDINO, RANCHO CUCAMONGA COURT**

11 CHRIS CORY COMLEY,

12 Plaintiff,

13 vs.

14 HOME DEPOT USA, INC., a Delaware
corporation; and DOES 1-100,

15 Defendants.

Case No. CIVRS 1105339 BY FAX

[Assigned for all purposes to
The Honorable Joseph R. Brisco, Dept. R10]

**DEFENDANT THE HOME DEPOT U.S.A.
INC.'S ANSWER TO PLAINTIFF'S
COMPLAINT FOR DAMAGES**

Action Filed: June 1, 2011
Trial Date: None Set

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10511873.21005

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DEFENDANT THE HOME DEPOT U.S.A., INC.'S ANSWER TO PLAINTIFF'S COMPLAINT FOR DAMAGES

1 Defendant The Home Depot U.S.A., Inc. ("Home Depot") hereby answers the Complaint
 2 for Damages (the "Complaint") filed by Chris Cory Comley ("Plaintiff") as follows:

3 **I. GENERAL AND SPECIFIC DENIALS**

4 Pursuant to the provisions of Code of Civil Procedure section 431.30, subdivision (d),
 5 Home Depot denies, generally and specifically, each and every allegation contained in the
 6 Complaint filed herein by Plaintiff. Home Depot denies, generally and specifically, that Plaintiff
 7 has been damaged in any sum, or at all, by reason of any act or omission on the part of Home
 8 Depot, or by any act or omission by any agent or employee of Home Depot. Home Depot further
 9 denies, generally and specifically, that Plaintiff is entitled to any relief whatsoever.

10 **II. AFFIRMATIVE DEFENSES**

11 Without waiving the foregoing, Home Depot alleges the following separate and
 12 independent affirmative defenses.

13 **FIRST AFFIRMATIVE DEFENSE**

14 **(Failure to State a Claim)**

15 1. The Complaint fails to state facts sufficient to constitute a cause of action as against
 16 Home Depot.

17 **SECOND AFFIRMATIVE DEFENSE**

18 **(Statute of Limitations)**

19 2. The Complaint, and each alleged cause of action contained therein, is barred by the
 20 applicable statutes of limitations, including, but not limited to, California Government Code
 21 sections 12960(d) and 12965(b), California Code of Civil Procedure sections 335.1, 338(a), and/or
 22 section 343.

23 **THIRD AFFIRMATIVE DEFENSE**

24 **(Good Faith Belief)**

25 3. The Complaint is barred because any decisions made by Home Depot with respect
 26 to Plaintiff's employment were made in good faith and reasonably based on the facts as Home
 27 Depot understood them.

1 **FOURTH AFFIRMATIVE DEFENSE**

2 **(Failure to Exhaust Administrative Remedies and Statutory Prerequisites)**

3 4. The Complaint is barred because Plaintiff has failed to exhaust his administrative
4 remedies in a timely manner or to comply with the statutory prerequisites for bringing suit
5 contained in the applicable statute. To the extent that the Plaintiff makes allegations or claims
6 which were not made the subject of a timely complaint against Home Depot filed by or on behalf
7 of Plaintiff with the California Department of Fair Employment and Housing ("DFEH") as
8 required by California Government Code sections 12900 et seq., the Court lacks jurisdiction with
9 respect to Plaintiff's Causes of Action.

10 **FIFTH AFFIRMATIVE DEFENSE**

11 **(Plaintiff's Failure to Utilize Policy and/or Home Depot's Immediate Corrective Action)**

12 5. The Complaint is barred on the grounds that Home Depot, at all relevant times,
13 exercised reasonable care to prevent and immediately correct any harassing or discriminatory
14 behavior, and Plaintiff unreasonably failed to take advantage of any preventive or corrective
15 opportunities provided by Home Depot or to avoid harm otherwise.

16 **SIXTH AFFIRMATIVE DEFENSE**

17 **(Justification)**

18 6. The Complaint is barred because Home Depot's actions were undertaken in good
19 faith and for good cause, with the absence of malicious intent to injure Plaintiff, and constitute
20 lawful, proper and justified means to further Home Depot's purpose to engage in and continue its
21 business activities.

22 **SEVENTH AFFIRMATIVE DEFENSE**

23 **(Consent)**

24 7. The Complaint is barred as Plaintiff has consented and acquiesced to those
25 purported acts of which he now complains.

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EIGHTH AFFIRMATIVE DEFENSE

(Unclean Hands)

8. The Complaint is barred by the doctrine of unclean hands because of Plaintiff's conduct and actions.

NINTH AFFIRMATIVE DEFENSE

(Estoppel)

9. The Complaint is barred because Plaintiff is estopped from asserting each of the claims alleged therein.

TENTH AFFIRMATIVE DEFENSE

(Waiver)

10. The Complaint is barred because Plaintiff has waived the right, by reason of his conduct and actions, to assert each of the claims alleged herein.

ELEVENTH AFFIRMATIVE DEFENSE

(Laches)

11. The Complaint is barred by the doctrine of laches.

TWELFTH AFFIRMATIVE DEFENSE

(Exclusivity of Workers' Compensation Laws)

12. The Complaint is barred, in whole or in part, by the exclusivity provisions of the California Workers' Compensation Act, Labor Code section 3600, et seq.

THIRTEENTH AFFIRMATIVE DEFENSE

(Nondiscriminatory Actions)

13. The Complaint is barred because any actions taken by Home Depot with respect to Plaintiff's employment were based upon legitimate, nondiscriminatory factors unrelated to Plaintiff's sex and age and free from unlawful harassment.

FOURTEENTH AFFIRMATIVE DEFENSE

(No Knowledge of Misconduct)

14. The Complaint is barred because Home Depot did not know and had no way of knowing about any alleged misconduct.

FIFTEENTH AFFIRMATIVE DEFENSE**(Uncertainty)**

15. Plaintiff's losses, if any, are speculative and uncertain or both, and therefore not compensable.

SIXTEENTH AFFIRMATIVE DEFENSE**(Failure to Mitigate)**

16. The Complaint is barred, in whole or in part, by Plaintiff's failure to mitigate damages as required by law.

SEVENTEENTH AFFIRMATIVE DEFENSE**(No Ratification)**

17. Home Depot is not liable for damages because if any person engaged in intentional, willful or unlawful conduct as alleged in Plaintiff's Complaint, he or she did so without the knowledge, authorization or ratification of Home Depot.

EIGHTEENTH AFFIRMATIVE DEFENSE**(Lack of Proximate Cause)**

18. Plaintiff's prayers for compensatory and punitive damages are barred because such damages, if any, were not the result of acts, representations or omissions of Home Depot and/or its agents.

NINETEENTH AFFIRMATIVE DEFENSE**(Causation by Plaintiff)**

19. The Complaint is barred because any damages or injuries that Plaintiff allegedly suffered were caused by Plaintiff's own conduct and actions, and not because of any unlawful conduct or actions by Home Depot.

TWENTIETH AFFIRMATIVE DEFENSE**(Facts Alleged Insufficient To Support Claim for Punitive Damages)**

20. Plaintiff is not entitled to recover punitive or exemplary damages because Plaintiff has failed to allege facts sufficient to state a claim for punitive damages or to show that Home Depot engaged in oppressive, fraudulent or malicious conduct.

1 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

2 **(Punitive Damages Not Recoverable Against Home Depot)**

3 21. Plaintiff is not entitled to recover punitive or exemplary damages from Home Depot
4 for the alleged acts referred to in the Complaint on the grounds that said acts, if any, were
5 performed by an employee of Home Depot and that none of Home Depot's officers, directors or
6 managing agents committed the alleged acts, nor authorized them, nor ratified them, nor did Home
7 Depot or its officers, directors or managing agents have advance knowledge of the unfitness, if any,
8 of the employee or employees who allegedly committed said acts, nor did Home Depot employ
9 said employee with a conscious disregard of the rights or safety of others. Cal. Civ. Code section
10 3294.

11 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

12 **(After-Acquired Evidence Doctrine)**

13 22. Plaintiff's purported causes of action are barred, in whole or in part, by the after-
14 acquired evidence doctrine.

15 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

16 **(Decision Based on Legitimate, Non-Harassing/Non-Retaliatory Business Reason)**

17 23. Plaintiff's Complaint and each cause of action therein are barred on the grounds that
18 any decisions made by Home Depot with respect to Plaintiff's employment were reasonably based
19 on legitimate, non-harassing, non-retaliatory business reasons that did not violate public policy or
20 any statutory prohibition and were unrelated to Plaintiff's alleged disability, and/or any alleged
21 complaints by Plaintiff.

22 **TWENTY-FOUR AFFIRMATIVE DEFENSE**

23 **(Reasonable Accommodation)**

24 24. Plaintiff's purported disability discrimination cause of action is barred as a
25 reasonable accommodation was given to Plaintiff.

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TWENTY-FIFTH AFFIRMATIVE DEFENSE**(Undue Hardship)**

25. Plaintiff's purported disability discrimination cause of action is barred as the accommodation requested by Plaintiff would have created an undue hardship on Home Depot and/or been dangerous to Plaintiff and the public.

TWENTY-SIXTH AFFIRMATIVE DEFENSE**(Failure to Engage In Interactive Process)**

26. Plaintiff's causes of action based on discrimination fails as Plaintiff's allegations do not state facts sufficient to establish that he engaged in a good faith interactive process.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE**(Unconstitutional to Recover Punitive Damages)**

27. Plaintiff is not entitled to recover punitive or exemplary damages from Defendant on the grounds that any award of punitive or exemplary damages would violate Defendant's constitutional rights under the Due Process Clauses of the Fifth and Fourteenth Amendments of the United States Constitution.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE**(Additional Affirmative Defenses)**

28. Home Depot presently has insufficient knowledge or information on which to form a belief as to whether it may have additional, as yet unstated, affirmative defenses available. Home Depot reserves the right to assert additional defenses in the event that discovery indicates that any additional defenses would be appropriate.

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1 WHEREFORE, Home Depot prays for judgment as follows:

- 2 1. That judgment be entered in favor of Home Depot and against Plaintiff;
- 3 2. That the Complaint herein be dismissed in its entirety with prejudice;
- 4 3. That Home Depot be awarded the costs of suit herein; and
- 5 4. For such other and further relief as the Court deems just and proper.
- 6

7 DATED: July 5, 2011

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

8

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10 By: 

11 Michael J. Sexton
Daniel A. Adlong

12 Attorneys for Defendant THE HOME DEPOT
13 U.S.A., INC.

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PROOF OF SERVICE

Comley v. Home Depot USA, Inc. et al.

Case No. CIVRS 1105339

I am and was at all times herein mentioned over the age of 18 years and not a party to the action in which this service is made. At all times herein mentioned I have been employed in the County of Orange in the office of a member of the bar of this court at whose direction the service was made. My business address is 695 Town Center Drive, Suite 1500, Costa Mesa, CA 92626.

On July 5, 2011, I served the following document(s):

DEFENDANT THE HOME DEPOT U.S.A. INC.'S ANSWER TO PLAINTIFF'S COMPLAINT FOR DAMAGES

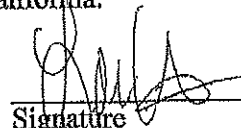
by placing ☐ (the original) ☒ (a true copy thereof) in a sealed envelope addressed as stated on the attached service list.

☒ **BY MAIL:** I placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the practice of Ogletree, Deakins, Nash, Smoak & Stewart, P.C.'s practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

☒ **(State)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 5, 2011, at Costa Mesa, California.

Lori Waters, CCLS
Type or Print Name


Signature

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SERVICE LIST

Joseph S. Dzida, Esq.
Theodore S. Khachaturian, Esq.
CALLANAN, ROGERS & DZIDA, LLP
800 South Figueroa Street, Eleventh Floor
Los Angeles, CA 90017-2521
Tel: 213-599-7595
Fax: 213-599-7596
E-Mail: jdzida@crdattorneys.com
tkhachaturian@crdattorneys.com

Attorneys for Plaintiff
CHRIS CORY COMLEY

10511873.2 (OGLETREE)

CERTIFICATE OF SERVICE
Comley v. Home Depot USA, Inc. et al.
Case No:

I am and was at all times herein mentioned over the age of 18 years and not a party to the action in which this service is made. At all times herein mentioned I have been employed in the County of Orange in the office of a member of the bar of this court at whose direction the service was made. My business address is 695 Town Center Drive, Suite 1500, Costa Mesa, CA 92626.

On July 6, 2011, I served the following document(s) described as follows:

DEFENDANT'S PETITION AND NOTICE OF REMOVAL

by placing ☐ (the original) ☒ (a true copy thereof) in a sealed envelope addressed as stated on the attorneys for Plaintiff, set forth below.

☒ **BY MAIL:** I placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the practice of Ogletree, Deakins, Nash, Smoak & Stewart, P.C's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.


Joseph S. Dzida, Esq.
Theodore S. Khachaturian, Esq.
CALLANAN, ROGERS & DZIDA, LLP
800 South Figueroa Street, Eleventh Floor
Los Angeles, CA 90017-2521
Tel: 213-599-7595
Fax: 213-599-7596
E-Mail: jdzida@crdattorneys.com
tkhachaturian@crdattorneys.com

Attorneys for Plaintiff
CHRIS CORY COMLEY

I declare that I am employed in the office of a member of the State Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

Executed on July 6, 2011, at Costa Mesa, California.

Lori Waters, CCLS
Type or Print Name


Signature

10503169.1 (OGLETREE)

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Virginia A. Phillips and the assigned discovery Magistrate Judge is David T. Bristow.

The case number on all documents filed with the Court should read as follows:

EDCV11- 1040 VAP (DTBx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☒ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

BY FAX

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) Chris Cory Conley	DEFENDANTS The Home Depot U.S.A., Inc.
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) See Attachment A	Attorneys (If Known) See Attachment A

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%;">PTF <input checked="" type="checkbox"/> 1</td> <td style="width:10%;">DEF <input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business in this State</td> <td style="width:10%;">PTF <input type="checkbox"/> 4</td> <td style="width:10%;">DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5</td> <td><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input checked="" type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
Citizen of This State	PTF <input checked="" type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4														
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5														
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6														

IV. ORIGIN (Place an X in one box only.)

<input type="checkbox"/> 1 Original Proceeding	<input checked="" type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify):	<input type="checkbox"/> 6 Multi-District Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge
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V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No **MONEY DEMANDED IN COMPLAINT: \$**

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 28 U.S.C. Sections 1332, 1441, 1446; CA Gov't Code Section 12900; wrongful termination; disability discrimination; failure to accommodate; wrongful retaliation

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input checked="" type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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FOR OFFICE USE ONLY: Case Number:

ED CV11-01040 VAP (DTBx)

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or

☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or

☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or

☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
San Bernardino	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Delaware and Georgia

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.


Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
San Bernardino	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):



Date

7/6/2011

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

ATTACHMENT A

Comley v. Home Depot USA, Inc. et al.
Case No.

(b) Attorneys for Plaintiff CHRIS CORY COMLEY

Joseph S. Dzida CA Bar No. 89459

jdzida@crdattorneys.com

Theodore S. Khachaturian CA Bar No. 239137

tkhachaturian@crdattorneys.com

CALLANAN, ROGERS & DZIDA, LLP

800 South Figueroa Street, Eleventh Floor

Los Angeles, CA 90017-2521

Tel: 213-599-7595

Fax: 213-599-7596

Attorneys for Defendant THE HOME DEPOT U.S.A., INC.

Michael J. Sexton CA Bar No. 153435

michael.sexton@ogletreedeakins.com

Daniel A. Adlong CA Bar No. 262301

daniel.adlong@ogletreedeakins.com

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

Park Tower, Suite 1500

695 Town Center Drive

Costa Mesa, CA 92626

Telephone: 714.800.7900

Facsimile: 714.754.1298

CERTIFICATE OF SERVICE
Comley v. Home Depot USA, Inc. et al.
Case No:

I am and was at all times herein mentioned over the age of 18 years and not a party to the action in which this service is made. At all times herein mentioned I have been employed in the County of Orange in the office of a member of the bar of this court at whose direction the service was made. My business address is 695 Town Center Drive, Suite 1500, Costa Mesa, CA 92626.

On July 6, 2011, I served the following document(s) described as follows:

CIVIL COVER SHEET

by placing ☐ (the original) ☒ (a true copy thereof) in a sealed envelope addressed as stated on the attorneys for Plaintiff, set forth below.

☒ **BY MAIL:** I placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the practice of Ogletree, Deakins, Nash, Smoak & Stewart, P.C.'s practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

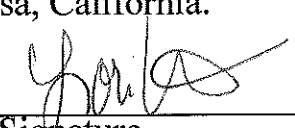
Joseph S. Dzida, Esq.
Theodore S. Khachaturian, Esq.
CALLANAN, ROGERS & DZIDA, LLP
800 South Figueroa Street, Eleventh Floor
Los Angeles, CA 90017-2521
Tel: 213-599-7595
Fax: 213-599-7596
E-Mail: jdzida@crdattorneys.com
tkhachaturian@crdattorneys.com

Attorneys for Plaintiff
CHRIS CORY COMLEY

I declare that I am employed in the office of a member of the State Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

Executed on July 6, 2011, at Costa Mesa, California.

Lori Waters, CCLS
Type or Print Name


Signature